

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Clover Ridge Village Condominium Association,)	
)	Civil File No. 21-cv-2702
Plaintiff,)	
)	<u>NOTICE OF REMOVAL</u>
v.)	
)	
The Phoenix Insurance Company,)	
)	
Defendant.)	

The Phoenix Insurance Company (hereinafter “Phoenix”) is named as the Defendant in the above-captioned case, in which Plaintiff seeks a declaration that Defendant has an obligation to pay pre-award interest in the amount of \$269,690.02 pursuant to Minn. Stat. §549.09. The Complaint, captioned *Clover Ridge Village Condominium Association v. The Phoenix Insurance Company*, was commenced in the First Judicial District, in Carver County, in the State of Minnesota.

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Phoenix hereby gives notice of the removal of this action from the First Judicial District, Carver County, Minnesota, where it is now pending, to the United States District Court for the District of Minnesota. In support of this Notice of Removal, Phoenix states:

1. A Complaint and Summons were served on behalf of Plaintiff Clover Ridge Village Condominium Association (“Plaintiff”) on Phoenix, in the First Judicial District, Carver County, Minnesota, a copy of which is attached as Exhibit A.

2. The aforesaid Summons and Complaint were first received by Phoenix on November 29, 2021. The Complaint and Summons have not been filed with the Carver County District Court to date. No further process, pleadings or orders have been served on Phoenix. 28 U.S.C. § 1446(b) provides that a notice of removal may be filed within 30 days after receipt by the

defendant of a copy of the initial pleading. As such, Phoenix's Notice of Removal is timely filed under 28 U.S.C. § 1446(b).

3. At all times relevant to the service of Plaintiff's Complaint and this Notice of Removal, Phoenix was incorporated in the State of Connecticut and had its principal place of business in the State of Connecticut. Therefore, it was a citizen of the State of Connecticut. *Hertz Corp. v. Friend*, 559 U.S. 77, 80 (2010) (corporation is deemed "citizen" for §1332 purposes only where it is incorporated and where its principal place of business is located).

4. At all times relevant to the service of Plaintiff's Complaint and this Notice of Removal, Plaintiff was a citizen of the State of Minnesota.

5. In its Complaint, Plaintiff seeks pre-award interest in the amount of \$269,690.02. *See* Ex. A. Compl. ¶¶ 20-21. While Phoenix denies any liability and denies that Plaintiff is entitled to pre-award interest, Plaintiff could be awarded an amount greater than \$75,000.00 if it is successful on its claim. Therefore, the amount in controversy is greater than \$75,000.00.

6. Because the jurisdictional minimum is satisfied and the parties are of diverse citizenship, the Court has jurisdiction over this matter under 28 U.S.C. §1332.

7. Pursuant to 28 U.S.C. § 1446(b), the state court action may be removed to this Federal District Court, being a United States District Court for the District of Minnesota, which embraces Carver County, Minnesota, within its jurisdiction.

8. Pursuant to 28 U.S.C. § 1446(d), Phoenix will give written notice of this removal to all parties in the state court action, and will file a copy of this Notice of Removal with the clerk of the state court action.

9. Pursuant to 28 U.S.C. § 1446(a), Phoenix attaches to this Notice of Removal a copy of all pleadings, papers, and other orders served upon it in the state court action to date. See Exhibit A attached hereto.

10. Phoenix files herewith the civil cover sheet and has made payment of the required filing fee. See Exhibit B attached hereto.

11. Phoenix has good and sufficient defenses to this action.

WHEREFORE, Defendant The Phoenix Insurance Company gives notice and respectfully removes the above-entitled action from the First Judicial District, Carver County, Minnesota, to the United States District Court for the District of Minnesota.

Dated: December 20, 2021

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